

Submission by**Hamilton City Council****REFORMING OUR RESOURCE MANAGEMENT SYSTEM: NATURAL AND BUILT ENVIRONMENTS BILL - PARLIAMENTARY PAPER ON THE EXPOSURE DRAFT****4 August 2021****1.0 EXECUTIVE SUMMARY**

- 1.1 Hamilton City Council supports the intent of the Natural and Built Environments Bill - in particular the focus on developing an outcomes-based planning system, nationally consistent frameworks, environmental bottom lines, and by creating a greater role for the Treaty of Waitangi in environmental decision-making.
- 1.2 We support the broad objectives of the Bill but note that further drafting and clarification of how those objectives work in practice is required.
- 1.3 Notwithstanding this support, Hamilton City Council does have wider concerns with the Bill in its current state - those concerns primarily relate to the reduced role and function of local government in plan making, the diluted voice of metropolitan authorities in proposed regional planning committees, and creation of a new organisation called a Planning Secretariat to prepare and produce plans in the absence of effective local representation.
- 1.4 The Bill, combined with the broader reform agenda, represents a system change for the planning and investment framework for New Zealand.
- 1.5 These changes have been promulgated prior to any comprehensive review of the purpose, role and function of local government which will not be completed until after the Natural and Built Environments Bill is complete.
- 1.6 The Natural and Built Environments Bill also significantly reduces the role of local government expertise in plan making and has diluted local government representation in decision-making when formulating plans as outlined in the draft Bill.
- 1.7 This is a concern for Hamilton City Council as local government has developed deep technical planning expertise and community knowledge which is critical for effective resource management and connections necessary for local planning, further removing local government expertise from developing planning frameworks.
- 1.8 We note the lack of detail in some key areas in the Bill, much of which is critical for the implementation of the system.
- 1.9 As a metropolitan urban authority experiencing high growth, Hamilton City Council notes the risk posed by the draft Bill is that it will reduce the effective representation of specific, urban interests and representation in the proposed plan making functions outlined in the Bill.
- 1.10 Hamilton City Council also notes there is substantive, important detail to come and is concerned at the pace and engagement with of the reform process.

- 1.11 Given the far-reaching extent and financial/resource implications that the Resource Management reforms will have on all sectors throughout New Zealand, these changes will result in significant transaction costs. As such, a comprehensive and critical analysis of the impact versus benefit of these changes across all of the reforms needs to be completed and made available as soon as possible.
- 1.12 We look forward to viewing/analysing the content and cost-benefit analysis of the final Regulatory Impact Statement when the full NBA Bill is introduced and subsequently made available for public submissions.
- 1.13 **Hamilton City Council's Overall Points, Concerns and Recommendations Include:**
- 1.14 Create greater certainty in the draft Bill of how to reconcile competing objectives/outcomes that the national planning framework and all plans must promote when creating new plans or when assessing a consent application.
- 1.15 Provide greater detail on the interpretation section in the draft Bill. For example, there is a definition of "Environment", a definition of "Natural Environment", but no definition of "Built Environment".
- 1.16 Consider specific improvements in overall drafting of the text as some of the language seems open to interpretation. For example, references that refer "*to the extent that it is important to good governance and proportionate to the significant of the matters at issue*" are problematic for local authorities to determine and implement. Who determines that? Will it be legally challengeable?
- 1.17 Provide greater clarity and certainty around plan making under the Bill. For example, once the new plans have been created, who is responsible for administrating them? Without knowing the role of local government in relation to the new Acts it is difficult to understand how implementation would work.
- 1.18 Create greater certainty around the transitional provisions and some form of staging for implementation - at the moment it is not clear as to how and when the transition to the new system will occur. Early understanding of this will be critical to ensure local government can effectively resource and implement the new system.
- 1.19 Create greater ability for specific combined plans for Tier 1 Metropolitan Authorities that are aligned to existing spatial plan areas.
- 1.20 Alternatively, consider providing for greater representation of Tier 1 elected officials on regional planning committee. In the Waikato Region, Hamilton City Council faces significantly different growth and resource management issues when compared to many of the smaller rural based authorities in the region. It makes little sense for Hamilton City Council, representing more than 50 percent of the Waikato's population, to be represented on a planning committee by one elected representative from the region's only city.
- 1.21 **Hamilton City Council's Specific Points, Concerns and Recommendations Include:**
- 1.22 Central government should, as part of its resourcing of the implementation of the new system, commit funding to participating in early litigation as an interested party.
- 1.23 We suggest amending Section 13(3) to make it clear that the NPF should include guidance on how to resolve conflicts between environmental limits and outcomes (although this will depend in part on the view that is reached around whether a hardline position should be adopted with environmental limits or not).
- 1.24 There is a need to clarify whether the provisions for resolving conflicts referred to in Section 13(3) are about the NPF providing direction around how to resolve conflicts or setting out a process to work through for resolving conflicts in plans, or both.

- 1.25 What is not yet clear is what role local government will play in developing the NPF. There needs to be proper/meaningful engagement with and input from local government on the creation of new national direction and evaluation and alignment of existing national direction, given local government's role in giving effect to national direction. What is not clear is what roles and functions will still sit with constituent local authorities versus Planning Committees i.e., policy functions, compliance/monitoring/enforcement functions, etc.
- 1.26 The NPF needs to be reflective of/consistent with other significant plans in development that will impact on local government and communities, including the Climate Change Emissions Reduction Plan and the Climate Change National Adaptation Plan.
- 1.27 To address this, the NPF should be a single, consolidated document/portal/tool containing all national direction.
- 1.28 Guidance around the process for the setting of environmental limits is important, given that a significant amount of power to set environmental limits sits with the Minister for the Environment. We assume that this guidance will be set out in Schedule 1 of the NBA.
- 1.29 The process for a Planning Committee setting an environmental limit needs to be clear and workable. This should be developed in conjunction with local government/planning committees (this process would sit in the NPF - yet to be drafted).
- 1.30 Guidance around how to resolve conflicts will be important and should be 'road-tested' with local government/Planning Committees so as to be workable.
- 1.31 There is a need to think through how NBA Plans will integrate with other parts of local government work programmes and related central government work programmes e.g., Long Term Plans, the New Zealand Infrastructure Strategy etc.
- 1.32 The contents of Natural and Built Environments Plans (and in particular the role of Regional Spatial Strategies) should be reconsidered to better deliver on housing and urban development for high growth or Tier One councils.
- 1.33 We would also advocate for the addition of provisions in the Bill that enable Inclusionary Zoning and other tools to incentivise affordable housing.
- 1.34 We note that the transition from over 100 planning documents to 14 NBA Plans is not an insignificant undertaking. The transition needs to be carefully considered and properly resourced (noting that Government should not lose sight of the significant time and money that has been spent on developing existing plans).
- 1.35 There is also a need to clarify whether a territorial authority can submit on a Combined Plan once it has been referred to the Independent Hearings Panel.
- 1.36 In regard to Section 24(2)(d), guidance in the NPF around where it is appropriate for conflicts to be resolved by plans or on a case-by-case basis through consents or designations would help and provide consistency.
- 1.37 If central government is going to play a more active role in regional planning, work needs to be undertaken to improve central and local government relationships. It is important that central government representatives that participate in regional planning exercises have a very good understanding of local/regional circumstances.
- 1.38 It is not clear how the Planning Committees working on NBA Plans will link with committees working on Regional Spatial Strategies. Will there be an overlap of membership and will both committees have the same secretariat?
- 1.39 In regard to Section 22(2), we suggest that it probably makes more sense for this section to state that a plan "must" instead of "may" include specified matters as currently drafted. This will help ensure consistency and avoid arguments about plan content.

2.0 INTRODUCTION

- 2.1 Hamilton City Council would like to thank Parliament's Environment Committee for the opportunity to make a submission to the Inquiry on the Parliamentary Paper on the Exposure Draft - Natural and Built Environments Bill (referred to as the Exposure Draft).
- 2.2 Hamilton City Council supports the overall direction and content of the Exposure Draft, but notes that there are significant issues that still need resolution before it has confidence that the proposals are workable and will deliver the benefits that are expected from the proposed reforms.
- 2.3 We note that a full Regulatory Impact Statement (RIS) by Treasury for the NBA Exposure Draft is not yet available, although a Summary of Initial Impact Analysis has been undertaken by the Ministry for the Environment. This states that *"A final RIS for the NBA will be prepared prior to the complete Bill being introduced, with updated analysis incorporating the results of further consultation and providing an assessment of the remaining policy areas. Separate RISs will be prepared for the SPA and for the CAA. Interdependencies between the proposals will be discussed within each final RIS"*.
- 2.4 Given the far-reaching extent and financial/resource implications that the Resource Management reforms will have on all sectors throughout New Zealand, these changes will result in significant transaction costs. As such, a comprehensive and critical analysis of the impact versus benefit of these changes across all of the reforms needs to be completed and made available as soon as possible. We look forward to viewing the content and cost-benefit analysis of the final Regulatory Impact Statement when the full NBA Bill is introduced and subsequently made available for public submissions.

3.0 PREVIOUS SUBMISSIONS MADE ON RESOURCE MANAGEMENT REFORM

- 3.1 Hamilton City Council takes a considerable interest in matters regarding Resource Management reform and has made a number of submissions in this space in recent years - for example:
 - Hamilton City Council staff feedback made on 21 May 2021 to the Ministry for the Environment's **Early Engagement on Resource Management Reform - Opportunities to Improve System Efficiency** - refer [here](#)
 - Hamilton City Council's 2 July 2021 submission to the New Zealand Infrastructure Commission's May 2021 Discussion Document **Infrastructure for a Better Future Aotearoa New Zealand Infrastructure Strategy** - refer [here](#)
 - Hamilton City Council's 17 October 2019 submission to the **June 2021 Discussion Document Proposed National Policy Statement for Urban Development (NPS-UD)** - refer [here](#)
 - Hamilton City Council's 3 February 2020 submission to the **Urban Development Bill** - refer [here](#)
- 3.2 All submissions made by Hamilton City Council can be accessed [here](#)

4.0 HAMILTON CITY COUNCIL AS A METROPOLITAN AUTHORITY AND EFFECTIVE PARTNER OF GOVERNMENT

- 4.1 Hamilton City Council is a trusted partner of Government and is effectively collaborating across a range of reform initiatives.
- 4.2 As a Tier 1 Metropolitan Authority, Hamilton City Council is a founding member of the current Future Proof Urban Growth Partnership and experiences growth and resource management issues that are fundamentally different in scale and nature to other territorial authorities in

the Waikato Region.

- 4.3 As such, the proposed combined plans as outlined in the draft Bill pose a risk that the focus on solving these urban issues (such as implementing the Hamilton-Waikato Metropolitan Spatial Plan and the National Policy Statement - Urban Development (NPS-UD) could be diluted by having Hamilton City Council being lumped in a broader planning document potentially covering the entirety of the Waikato Region.
- 4.4 As an alternative, Hamilton City Council would like amendments made to the Bill which provide for combined plans to be created for metropolitan Tier 1 areas. For Hamilton, that could include a combined plan for the same spatial area as that which has been used to develop the Hamilton-Waikato Metropolitan Spatial Plan and the Housing and Business Capacity Assessments under the NPS-UD.

5.0 ROLE AND PURPOSE OF LOCAL GOVERNMENT IN RESOURCE MANAGEMENT

- 5.1 Local Government plays a unique role in the resource management system. Hamilton City Council has developed significant capacity, capability and expertise in these areas. That is now at risk through the proposed Bill, especially in relation to the plan making provisions outlined in Schedule 3 of the draft Bill.
- 5.2 The Bill proposes fundamental changes to how planning frameworks are prepared with the introduction of combined plans being prepared in a collaborative manner. While this is a laudable goal, the complexity, scope, cost and expertise in being able to achieve this under the current Bill is unclear, especially in the content where local government technical expertise will not be relied upon to prepare and administer plans.
- 5.3 The creation of a planning secretariat introduces a new structure and entity in New Zealand's plan making system, along with other new stakeholders (such as the proposed Three Waters entities).
- 5.4 Further, the creation of Planning Committees dilutes local representation during the plan making process. Local councils are an effective conduit to understanding, reaching and reflecting community aspirations and desires in resource management. Under the proposed Bill, these connections are potentially lost.
- 5.5 Hamilton City Council views it as critically important that the Resource Management reform programme aligns closely with the other key reforms taking place (e.g., Three Waters; the Future for Local Government) and that it also aligns with other work programmes that have relevance to local government e.g., Climate Adaptation Plan; Emissions Reduction Plan; New Zealand Infrastructure Strategy etc.
- 5.6 Taken together, the combined effect of these reforms will result in a diminished role for local government.

6.0 SPECIFIC COMMENTS ON THE DRAFT BILL

6.1 SECTION 5: PURPOSE OF THE NEW ACT

- 6.2 Hamilton City Council supports an integrated approach to environmental management and land use planning. Broadly speaking, the purpose appears to reflect the Government's objectives for the Resource Management reform programme.
- 6.3 We support officials continuing to work with Iwi, hapū and Māori groups on the concept of Te Oranga o te Taiao (a concept intended to express the intergenerational importance to Māori of environmental wellbeing). This should include consideration of how the concept will work in practice and whether the provisions of the Natural and Built Environments Act (NBA) will sufficiently ensure that Te Oranga o te Taiao is upheld.

- 6.4 We broadly agree that introducing environmental limits is likely to improve outcomes for the natural environment and support the intent behind shifting from managing adverse effects to promoting outcomes for the benefit of the environment.
- 6.5 The requirements to meet environmental limits and promote outcomes for the benefit of the environment and to manage adverse effects on the environment raise some concerns around whether the NBA will ultimately satisfy the Government's reform objective of improving system efficiency and effectiveness and reducing complexity.
- 6.6 A new purpose provision does mean that the suite of case law developed under the Resource Management Act in relation to its purpose and supporting provisions will be lost. We anticipate that there is potential for a number of costly, lengthy and time-consuming arguments to test the meaning of the purpose of the NBA, which will likely involve and impact on local government. Central government should, as part of its resourcing of the implementation of the new system, commit funding to participating in early litigation as an interested party.
- 6.7 The shift from managing adverse effects to complying with environmental limits and promoting outcomes for the benefit of the environment will require a change in culture. Resourcing of capability building within local government will be needed i.e., guidance, training etc.
- 6.8 There will be a need to educate consent applicants of the changes to the system. Local government will likely play a significant role in that, so should therefore be supported and resourced by Central Government to carry out that role.
- 6.9 **SECTIONS 9 - 17: NATIONAL PLANNING FRAMEWORK**
- 6.10 Hamilton City Council is of the view that a consolidated national direction will be useful, as well as resolving conflicts between existing and new forms of national direction, via the National Planning Framework (NPF).
- 6.11 We suggest amending Section 13(3) to make it clear that the NPF should include guidance on how to resolve conflicts between environmental limits and outcomes (although this will depend in part on the view that is reached around whether a hardline position should be adopted with environmental limits or not).
- 6.12 There is a need to clarify whether the provisions for resolving conflicts referred to in Section 13(3) are about the NPF providing direction around how to resolve conflicts or setting out a process to work through for resolving conflicts in plans, or both.
- 6.13 It remains to be seen whether the NPF actually adequately addresses the issue of how to resolve conflicts between outcomes (and conflicts between environmental limits and outcomes - if the view is that this position should be adopted). However, we agree that it should include guidance of this kind.
- 6.14 **What is not yet clear is what role local government will play in developing the NPF.** There needs to be proper/meaningful engagement with and input from local government on the creation of new national direction and evaluation and alignment of existing national direction, given local government's role in giving effect to national direction. What is not clear is what roles and functions will still sit with constituent local authorities versus Planning Committees i.e., policy functions, compliance/monitoring/enforcement functions, etc.
- 6.15 Working with local government on the development of the NPF will also assist the Minister for the Environment to understand the new national direction that should be prioritised on the basis that it will most assist/support with preparing NBA Plans (and Regional Spatial Strategies).

- 6.16 When developing the NPF, there is an opportunity to work with local government to identify what national direction will and will not work well across New Zealand. For example, Simpson Grierson’s opinion for LGNZ suggests that national direction on natural hazards would be useful across the country, but that national direction on biodiversity may not work well for all local communities.
- 6.17 Questions around timing and sequencing need to be addressed. For example, when is work on the NPF likely to commence? What is the intention around sequencing of having the NPF in place prior to undertaking work on developing NBA plans and Regional Spatial Strategies?
- 6.18 Consequently, any early signals of any existing national direction that the Minister for the Environment intends to change would be helpful.
- 6.19 The process for developing and amending the NPF needs to be made clear, particularly given the significant amount of power that the Minister for the Environment has to set the direction. It is important that there are not constant changes to the NPF that necessitate changes to NBA Plans (and Regional Spatial Strategies).
- 6.20 We have concerns around the Ministry for the Environment’s capacity to review and align existing national direction and to develop a significant amount of new national direction, particularly given that the history of the Resource Management Act is such that national direction has not been particularly well utilised, or consistent where it has been created.
- 6.21 The NPF needs to be reflective of/consistent with other significant plans in development that will impact on local government and communities, including the Climate Change Emissions Reduction Plan and the Climate Change National Adaptation Plan.
- 6.22 To address this, the NPF should be a single, consolidated document/portal/tool containing all national direction.
- 6.23 We support the NPF being made as Regulations, as this provides some scope for scrutiny, which does seem important given the significant amount of power the Minister for the Environment has to set national direction.
- 6.24 We question what arrangements will be put in place to ensure that national direction is given effect to on the ground. Will the monitoring system cover all of the broad areas referenced in Section 8?

7.0 ASPECTS HAMILTON CITY COUNCIL SUPPORTS

7.1 SECTION 6: TE TIRITI O WAITANGI

- 7.2 Hamilton City Council supports the approach of ‘giving effect’ to the principles of Te Tiriti, and the greater, more strategic role that is envisaged for Māori in the new system.
- 7.3 The shift from ‘take into account’ under the Resource Management Act to ‘give effect to’ will require a change in culture/approach. This needs to be supported and resourced through the likes of training, guidance etc. by Central Government.
- 7.4 We support the Resource Management Review Panel’s recommendation that direction should be provided on how to give effect to the principles of Te Tiriti. This guidance will need to acknowledge the time it takes to ensure meaningful participation by mana whenua in decision-making processes and should not lose sight of the varied practices across the country in terms of what works for engagement with mana whenua.
- 7.5 We support the Minister for the Environment’s view (in a Cabinet paper dated 14 December 2020) that this guidance should be included in the NBA itself (and not national direction, as recommended by the Review Panel). Inclusion of the guidance in the NBA gives it greater legal status and protection.

- 7.6 Resourcing to support Māori to engage meaningfully in the new system will be critical. Local government will also need resourcing/support to build its capability and capacity to effectively engage with Māori.
- 7.7 The requirement to 'give effect' to the principles of Te Tiriti must be reflected in the balance of the drafting of the Bill. A role for mana whenua in Planning Committees/developing NBA Plans is an important first step. However, the important part will be in the detail in terms of what the governance and decision-making arrangements are and how these get supported and resourced.
- 7.8 **SECTION 7: ENVIRONMENTAL LIMITS**
- 7.9 Hamilton City Council broadly agrees that environmental limits have the potential to improve outcomes for the natural environment.
- 7.10 However, how effective and workable environmental limits will be remains to be seen. Again, the critical aspects will be in the detail that is still to be developed.
- 7.11 The need to comply with environmental limits needs to be balanced against the need for development. It still remains to be seen through the NPF whether there is any scope to 'budge' on environmental limits, particularly where doing so would promote other outcomes.
- 7.12 However, it does seem reasonably clear from Section 7(6) that the intent is that there must be compliance with environmental limits. Guidance around the process for the setting of environmental limits is important, given that a significant amount of power to set environmental limits sits with the Minister for the Environment. We assume that this guidance will be set out in Schedule 1 of the NBA.
- 7.13 Environmental limits will need to be workable. This goes to the point of it being important that central government partners with local government on the development of the NPF.
- 7.14 Limits should be flexible enough to provide different levels of environmental protection for different circumstances and locations.
- 7.15 Urban growth issues and development requirements, specifically those required in the National Policy Statement - Urban Development, set ambitious outcomes for cities to deliver on catering for growth. These requirements need to be considered when developing environmental limits, noting that any contradictions between these and the Government's ambitions for growth may provide confusion and complexity to the planning and development process.
- 7.16 The Exposure Draft references the need to draw on a range of sources, including science and Mātauranga Māori to set environmental limits. We agree with this and note that local government knowledge as the implementer of national direction should be drawn upon.
- 7.17 We have concerns around the ability for qualitative limits to be set. These will be more difficult to demonstrate compliance with than quantitative limits.
- 7.18 There are a number of unresolved questions that will need to be addressed in the balance of the drafting of the NBA and the NPF: how the limits integrate with one another; whether there can be any exceptions to complying with limits; which limits are prioritised; and what happens where there are conflicts between limits.
- 7.19 The process for a Planning Committee setting an environmental limit needs to be clear and workable. This should be developed in conjunction with local government/planning committees (this process would sit in the NPF - yet to be drafted).
- 7.20 There is a definite question around whether there is sufficient science/data available (and/or investment in this) to set environmental limits that will be workable, and to assess whether consent applications will meet environmental limits and monitor compliance with them.

7.21 SECTION 8: ENVIRONMENTAL OUTCOMES

- 7.22 Hamilton City Council notes that the requirement to promote outcomes for the benefit of the environment will require a shift from current approach/culture of managing adverse effects under the Resource Management Act.
- 7.23 The list of 16 outcomes includes a balanced mix of outcomes focused on environmental protection and enabling use and development. However, the list of outcomes is not prioritised. Spelling out a raft of outcomes does not make them compatible or deliverable.
- 7.24 Sections 6 and 7 of the Resource Management Act have been criticised for being a long 'shopping list' of matters to consider. Section 8, as currently drafted, is likely to be seen as 'much the same'.
- 7.25 Although it is envisaged that the NPF and NBA Plans will help to resolve conflicts between outcomes, it is inevitable that there will be lengthy, costly and time-consuming arguments about how to resolve conflicts. Not all conflicts will be able to be anticipated and resolved in advance.
- 7.26 Guidance around how to resolve conflicts will be important and should be 'road-tested' with local government/Planning Committees so as to be workable.
- 7.27 We note that only 9 of the 16 outcomes are currently required to be set out in the National Direction (Section 13(1)).
- 7.28 It is good to see specific outcomes around climate change. It is important that there are links in the NPF with the Climate Change Emissions Reduction Plan and the National Adaptation Plan to support the promotion of these outcomes.
- 7.29 On the outcome around greenhouse gas emissions, tools to support the measuring and monitoring of emissions associated with resource consent applications, and nationally consistent frameworks for assessing emissions as part of consenting decisions, will be important.

8.0 ISSUES AROUND INTERPRETATION

- 8.1 Hamilton City Council notes that how well the NBA meets the objectives of the Resource Management Reform Programme will depend in large part on the drafting of the balance of the Bill and what the arrangements are for transition and implementation (including how this is resourced).
- 8.2 Based on what is included in the Exposure Draft, we are not yet convinced that we are going to end up with a system that is more efficient and less complex than what we have now.
- 8.3 The key to whether the objective of retaining appropriate local democratic input is achieved is ensuring that the new system appropriately takes account of the significant local variation that exists within regions (especially in NBA Plans) and the further work that is still to be done around membership and roles/functions of Planning Committees (plus the roles and functions of constituent local authorities).

8.4 SECTION 18: IMPLEMENTATION PRINCIPLES

- 8.5 Hamilton City Council notes that Section 18(c) is somewhat vague. For example, what does public participation that is "*important to good governance*" and "*proportionate to the significance of the matters at issue*" actually mean?
- 8.6 Section 18(d) is very contingent on what gets worked out around governance arrangements and how mana whenua is supported to meaningfully engage with the new system. There is a need to think through the mechanisms available for mana whenua input beyond just having representation on Planning Committees, and how their input is facilitated/supported.

- 8.7 There appears to be a lack in the Implementation Principles around timely, efficient and proportionate processes (something akin to Section 18A of the RMA). We suggest that this be included.
- 8.8 Resourcing to support implementation (and transition) is going to be vital. Local government needs to be closely engaged on not just legislative design, but also implementation and transition arrangements. The change in culture that will be needed is going to be a big factor in the success of implementation.
- 8.9 Timing and sequencing will be key to implementation - this needs to be worked through carefully.
- 8.10 There is a need to think through how NBA Plans will integrate with other parts of local government work programmes and related central government work programmes e.g., Long Term Plans, the New Zealand Infrastructure Strategy etc.
- 8.11 There needs to be clear messaging to local government around how it should be managing existing District Plan review processes now in light of the eventual shift to the new system.
- 8.12 **SECTIONS 19 - 21: REQUIREMENT FOR NATURAL AND BUILT ENVIRONMENT PLANS**
- 8.13 Hamilton City Council notes that the transition from over 100 planning documents to 14 NBA Plans is not an insignificant undertaking. The transition needs to be carefully considered and properly resourced (noting that Government should not lose sight of the significant time and money that has been spent on developing existing plans).
- 8.14 We agree that in principle a single Regional Plan will likely be easier for users of plans, but the complexity of developing (and potentially navigating/using) Regional Plans should not be underestimated.
- 8.15 Consistency across regions on some matters may be desirable, although it is likely that there will be plenty of matters on which local variation needs to be properly reflected.
- 8.16 We recommend that the contents of Natural and Built Environments Plans (and in particular the role of Regional Spatial Strategies) should be reconsidered to better deliver on housing and urban development for high growth or Tier One councils. This would also align with more balanced purpose provisions under Part 2 of the Exposure Draft, with the inclusion of more explicit recognition of the built environment and the role of housing and urban development in our communities.
- 8.17 Related to this for high growth or Tier One councils, we would also advocate for the addition of provisions in the Bill that enable Inclusionary Zoning and other tools to incentivise affordable housing.
- 8.18 Sequencing and resourcing need to be worked through with local government. The relationship between NBA Plans and Regional Spatial Strategies will be important and needs to be clarified.
- 8.19 Consideration of the fact that specialised expertise currently sits across both regional, city and district councils needs to be taken into account. A process to utilise these resources in the development of regional plans is critical, noting that essentially combining Regional Policy Statements, Regional Plans, and District Plans requires comprehensive understanding of the areas to which they will apply.
- 8.20 Thinking about the entity or people that will actually carry out the work of writing these plans is critical. Do these experts sit at Central or Local Government level, do they get moved to a new entity, and do they need to be co-located?
- 8.21 There is a need to consider what happens to existing plan making processes and when e.g., at what point do we transition from existing plans that are in various stages of development to

new plans?

- 8.22 There is also a need to consider how existing consents/designations and consent/designation applications get dealt with in terms of timing and transition to the new system.

9.0 PROCESS ISSUES

9.1 SECTIONS 23 - 25: PLANNING COMMITTEES

- 9.2 Hamilton City Council notes that there is still a considerable amount to be worked out in terms of membership of Planning Committees and governance arrangements. This needs to be done in close partnership with local government. The same goes for working on how Planning Committees get resourced, and what the roles and functions of Planning Committee secretariats are (versus what roles remain within constituent councils).
- 9.3 The process for Planning Committees setting environmental limits will need to be clearly set out and should be 'road-tested' with a Planning Committee.
- 9.4 Clarity is required around what role the Joint Committee plays in terms of consulting with the public before developing plans/prior to the plans being referred to an independent hearings panel. The drafting of plans will need to have some level of public input if local priorities are to be properly reflected, but the roles the Planning Committees play in that regard versus constituent local authorities needs to be worked through.
- 9.5 We support the inclusion of Section 24(4) for the sake of clarity and certainty. What is not yet clear, and remains to be seen, is whether the Planning Committee approach will result in more agile and efficient plan-making processes.
- 9.6 There is a need to clarify the mechanisms through which constituent local authorities will be able to have input into the drafting of NBA Plans prior to their referral to an Independent Hearings Panel, and the extent of that input.
- 9.7 There is also a need to clarify whether a territorial authority can submit on a Combined Plan once it has been referred to the Independent Hearings Panel.
- 9.8 We would like clarification as to whether Independent Hearings Panels will be resourced and supported by Planning Committee secretariats.
- 9.9 It would appear that the Exposure Draft has not included the Resource Management Review Panel's recommendation of the Ministry for the Environment carrying out an audit of NBA Plans prior to their referral to an Independent Hearings Panel. If there is intent to include this in the balance of the drafting, Hamilton City Council would encourage officials not to do so.
- 9.10 We have concerns about the Ministry for the Environment's capacity to audit Regional Plans, and question what value that would add if plans are being audited on a national basis by people that don't necessarily have understanding of local circumstances. We do not think that the Ministry for the Environment's audit is consistent with the objective of a system that is more efficient and less complex.
- 9.11 There is likely to be issues of where legal challenges are brought that relate to NBA Plans. Should such challenges be brought against Planning Committees or constituent local authorities? How would this work in terms of liability? And what happens where a constituent local authority wants to challenge a Planning Committee's decision, but is represented on that Planning Committee?
- 9.12 In regard to Section 24(2)(d), guidance in the NPF around where it is appropriate for conflicts to be resolved by plans or on a case-by-case basis through consents or designations would help and provide consistency.

- 9.13 Can a Planning Committee direct a constituent local authority to undertake work on its behalf? If so, there may need to be some mechanisms to manage workflows/some boundaries around what work a Planning Committee can direct a local authority to do.
- 9.14 Members of Planning Committees will need governance support from their constituent local authority, but it clearly remains to be seen what this support will look like.
- 9.15 **SCHEDULE 3 - PLANNING COMMITTEES**
- 9.16 Hamilton City Council notes that considerable detail around Planning Committees is still to be worked through, which needs to happen in close partnership with local government.
- 9.17 We support the local government representatives on Planning Committees being elected members, given they are democratically accountable to their communities. However, it needs to be clear on what the mechanisms are for ensuring that those members are supported by their constituent local authority, and what the mechanisms for broader input from councils are.
- 9.18 One of the key issues is what functions sit with Planning Committees versus constituent local authorities. For example, it is still not clear what role individual councils would play in terms of policy making and engagement with their constituent communities to inform the development of NBA Plans by Planning Committees.
- 9.19 It is not yet clear what funding central government and/or mana whenua would contribute towards the resourcing of Planning Committee secretariats (if any). This requires clarification.
- 9.20 If central government is going to play a more active role in regional planning, work needs to be undertaken to improve central and local government relationships. It is important that central government representatives that participate in regional planning exercises have a very good understanding of local/regional circumstances.
- 9.21 It is not clear how the Planning Committees working on NBA Plans will link with committees working on Regional Spatial Strategies. Will there be an overlap of membership and will both committees have the same secretariat?
- 9.22 Councils will likely need new delegations to give their representative(s) the necessary authority to participate in Planning Committees.
- 9.23 Arrangements for consultation with affected communities are still unclear, so it is difficult to say to what extent the objective of retaining appropriate local democratic input will be met.
- 9.24 While accepting that the larger a Planning Committee is the more unwieldy it may be/more likely it is that planning will become inefficient and complex, there will not be appropriate local democratic input if there isn't representation of each constituent local authority on the Planning Committee.

10.0 IMPLEMENTATION

- 10.1 Hamilton City Council notes that transition and implementation are key issues for local government, which needs to be closely engaged on what the transition and implementation arrangements look like. Transition and implementation need to be properly resourced.
- 10.2 Transitioning to the new system is going to require a change in ways of working for local government. Central government has a role to play in resourcing and supporting some of this, including guidance, training etc.
- 10.3 Timing and sequencing of the various component parts of the new system (and what happens with the existing system) will be key to a successful transition.
- 10.4 Hamilton City Council notes that significant detail is yet to be delivered on resource consents, designations, enforcement and other implementation matters and that these are critical

matters to be resolved to ensure the Bill can be effectively delivered.

11.0 NEXT STEPS

- 11.1 Hamilton City Council notes that engagement with local government on the Resource Management reform package needs to improve, given the significant role local government will play in the new system. To date, engagement has been limited and ad hoc.
- 11.2 **OPPORTUNITIES FOR IMPROVING SYSTEM EFFICIENCIES AND REDUCING COMPLEXITY**
- 11.3 On the basis of what is currently set out in the Exposure Draft, Hamilton City Council is not convinced that the reform objective of improving system efficiency and effectiveness and reduce complexity will be met. However, judgements on efficiency, effectiveness and complexity will be easier to make once the balance of drafting of the actual Bill is available and once there is more clarity around arrangements and resourcing for transition and implementation.
- 11.4 We agree in principle that consistent use of digital tools will likely be helpful for achieving system efficiencies, but it will be important that these systems integrate - across e-planning, consenting, property systems, monitoring etc. Such systems will need to be properly resourced.

12.0 OVERALL REVIEW OF FIRST DRAFT AND FURTHER COMMENTS

12.1 SECTION 22: CONTENTS OF PLANS

- 12.2 In regard to Section 22(2), Hamilton City Council suggests that it probably makes more sense for this section to state that a plan “must” instead of “may” include specified matters as currently drafted. This will help ensure consistency and avoid arguments about plan content.
- 12.3 There appears to be recognition of the need for matters of significance to each district to be provided for, given the differences of individual districts. However, what is key is what the governance arrangements look like, what opportunities there are for public input into plan making, and what role each constituent local authority continues to play in terms of policy making.
- 12.4 There is a lot to be resolved in terms of what the roles and functions of constituent local authorities, particularly around policy-making and public consultation to inform the development of NBA Plans.
- 12.5 The Exposure Draft sets out an expectation that Iwi Management Plans will be used in the preparation of NBA Plans, but that is not yet clear from the drafting of Section 22.
- 12.6 On the issue of plan agility, we note that plan making that removes or restricts de novo Environment Court appeals/merit-based challenges would be a step in the right direction; removing recourse to the Environment Court on policy matters would help to speed up the process.
- 12.7 One substantive matter to be determined is whether or not there will be an ability to carry through any provisions that have been developed through existing plan making processes without reopening them up for debate, or is the intention that development of NBA Plans is to begin with a 100 percent ‘blank canvas’? The significant amount of time and money that has been spent on making and reviewing existing plans should not be overlooked.
- 12.8 There appears to be an intent that regions can promote outcomes in addition to Section 8 outcomes, provided that Section 8 outcomes are satisfied in the plans. However, this will potentially create further conflicts between outcomes.
- 12.9 We support the intention to develop a model NBA Plan with one or two regions.

13.0 FURTHER INFORMATION AND HEARINGS

- 13.1 Should the Parliament's Environment Committee require clarification of Hamilton City Council's submission, or additional information, please contact **Blair Bowcott** (General Manager Growth) on 07 838 6742 or 021 775 640, or email blair.bowcott@hcc.govt.nz in the first instance.
- 13.2 Hamilton City Council **does wish to speak** in support of this submission at the Environment Committee hearings.

Yours faithfully



Richard Briggs
CHIEF EXECUTIVE